

Summary

FRANCHISES OF PRIVATE COMPANIES AT NIAGARA FALLS

Introduction

This Memorandum is divided into three parts:

- Part 1. -Early History, and Private Companies now in operation.
- Part 2. -American Companies at Niagara Falls.
- Part 3. -Canadian Companies at Niagara Falls.

The early history is based on statements contained in a pamphlet issued by the City Industrial Agent of Niagara Falls, N.Y., and steps are being taken to verify its accuracy.

Parts 2 and 3 are based on information contained in the report of the Commission of Conservation: "Water-Powers of Canada -1911."

The report referred to as the Taylor Report is the report of an investigation made for the U. S. War Department and submitted in 1920. Investigation was carried out by American army engineers one of whom was General Taylor. Copies of the Report have been applied for.

FRANCHISES OF PRIVATE COMPANIES AT NIAGARA FALLS

I. EARLY HISTORY, AND PRIVATE COMPANIES NOW IN OPERATION

Early History

The power of Niagara was first utilized in 1725 by a primitive sawmill. In 1805 Augustus Porter built a sawmill, and in 1807 a grist mill. In 1826 DeWitt Clinton, the father of the Erie Canal, wrote in his journal that Niagara Falls is "the best place for hydraulic works in the world. In 1842, after having attempted for years to interest capital in the electrical development of power at Niagara Falls, Augustus Porter published a plan of a proposed development on a large scale. In 1853 the Hydraulic Canal was commenced by Horace H. Day, the heirs of Augustus Porter having conveyed a right-of-way 100 feet wide through the Village of Niagara Falls, N.Y. and more land at the terminal for the basin. The canal was completed in 1861. In 1877 it was acquired by Jacob F. Schiellkopf of Buffalo, who later conveyed it to the Niagara Falls Hydraulic Power and Manufacturing Co. The canal has thus been in continuous use since 1861 and today feeds the hydraulic plant of the Niagara Falls Power Co. (Acquired from the Niagara Falls Hydraulic Power & Mfg. Co.)

THE UNITED STATES OF AMERICA

IN SENATE

January 1, 1900

REPORT

OF THE

COMMISSIONER OF THE GENERAL LAND OFFICE

IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE

ON MAY 1, 1899

RELATIVE TO THE LANDS BELONGING TO THE UNITED STATES

IN THE TERRITORY OF ARIZONA

AND TO THE LANDS BELONGING TO THE UNITED STATES

IN THE TERRITORY OF NEW MEXICO

AND TO THE LANDS BELONGING TO THE UNITED STATES

IN THE TERRITORY OF COLORADO

AND TO THE LANDS BELONGING TO THE UNITED STATES

IN THE TERRITORY OF KANSAS

AND TO THE LANDS BELONGING TO THE UNITED STATES

IN THE TERRITORY OF OKLAHOMA

AND TO THE LANDS BELONGING TO THE UNITED STATES

IN THE TERRITORY OF NEBRASKA

AND TO THE LANDS BELONGING TO THE UNITED STATES

IN THE TERRITORY OF IOWA

AND TO THE LANDS BELONGING TO THE UNITED STATES

IN THE TERRITORY OF MISSOURI

AND TO THE LANDS BELONGING TO THE UNITED STATES

The report of the Commission of Conservation "Water-Powers of Canada, 1911" at page 69 sets out the names of upwards of 50 chartered companies having power rights in the Niagara, Welland and Lake Erie waters. The statutory powers of some of these companies have expired by limitation while others have never undertaken development or have been absorbed by other interests. From time to time the names of the various companies have undergone change and it would be impossible to trace the history and present status of every company. Ninety per cent. of the power developed on both sides of the river at the present time is controlled by four companies, namely:

On the American side -

*245-400
P. 100*
The Niagara Falls Power Co. - operates its original plant above the Falls and has recently absorbed the old hydraulic plant below the Falls of the Niagara Falls Hydraulic Power and Mfg. Co.

On the Canadian side there are 5 large companies -

382-2000
(The Canadian Niagara Power Company
The Ontario Power Company (Hydro)
The Electrical Development Company, Ltd.

In addition to these so-called major plants there is on the American side the Pettibone Cataract Paper Co. diverting 270 second-feet according to the Taylor Report, and on the Canadian side the plant of the International Railway Co. and the water works plant of the town of Niagara Falls, Ont.

2. AMERICAN COMPANIES AT NIAGARA FALLS

Niagara Falls Power Company

In 1886 the New York legislature granted a special charter to the Niagara Falls Power Company granting the right to develop 120,000 horsepower from a tunnel located above Goat Island on the American side. Work was commenced in 1890 and power first delivered August 26th, 1895. Its franchise is for 50 years from March 31st, 1886. Under the Burton Act the Company was allowed a maximum diversion of 8,600 cubic feet per second, and the Taylor Report, Para 34, estimates the water at present being diverted by this plant as 9,450 second-feet. Recently there has been a merger with this company of the Niagara Falls Hydraulic Power and Manufacturing Co.

Niagara Falls Hydraulic Power & Mfg. Co.

This plant, locally known as the Schieffkopf plant, is located below the Falls and is fed by the hydraulic canal built by Horace H. Day in 1861. It was organized under the general laws of the State of New York in 1877. According to the Taylor report this plant diverts from the Niagara River 7,840 second-feet. It is now known as the hydraulic plant of the Niagara Falls Power Co.

It would appear from the excerpts from the Taylor Report available that all the franchises for the development of power on the American side have either fallen into the hands of the Niagara Falls Power Co. or are dormant.

The only exception referred to in the Taylor Report is the Pettibone Cataract Paper Co. concerning which no information is available.

THE ONLY WAY TO A BETTER WORLD IS TO
MAKE IT BETTER FOR EVERYONE.
AND THAT'S THE WAY TO A BETTER WORLD.

5. CANADIAN COMPANIES ON THE NIAGARA RIVER

The charters and franchise rights of the Canadian companies on the Niagara River have all originated out of agreements with the Queen Victoria Niagara Falls Park Commission. These agreements permit these companies to divert water from the Niagara River for the purpose of electric or pneumatic power. The wording of each contract limits the amount of water diverted to the capacity of the works permitted, with the exception of the Electrical Development Company, Ltd., which was specifically bound not to produce over 125,000 commercial horsepower under its agreement. By Order in Council approved by the Lieutenant-Governor June 13th, 1914, the diversion allowed to these three companies was fixed as follows:

"In the case of the Canadian-Niagara Power Company, a volume of diversion from the Niagara River of the Falls of Niagara not to exceed 9,225 cubic feet of water per second."

"In the case of the Electrical Development Company, Ltd., a volume of diversionnot to exceed 9,985 cubic feet of water per second."

"In the case of the Ontario Power Company a volume of diversion..... not to exceed 11,190 cu. ft. per second."

Canadian-Niagara Power Co.

This company is an ally of the Niagara Falls Power Co. of Niagara Falls, N.Y. Negotiations for the privileges the company now possesses opened in 1889, American capitalists being interested. In 1890 English capitalists became interested and on payment of \$10,000.

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secured a year's option to develop power within the area controlled by the Park Commission. This option was allowed to expire by limitation on March 1st, 1892.

By an agreement confirmed by the Ontario Legislature in April, 1892, a group of English and U.S. capitalists--subsequently incorporated as Canadian Niagara Power Company--secured the exclusive right to utilize the waters of the Niagara River within the limits of Queen Victoria Niagara Falls Park. In 1899 the company abandoned its exclusive rights in return for certain concessions.

Terms of License The Licenses granted are for 50 years beginning from the 1st May, 1899. The Company at its option may have three renewal periods of 20 years each, making the total period under its option 110 years. The Lieutenant-Governor in Council may require the company to continue its operations for a further term of 20 years, thus making in all 130 years.

The Company agrees to pay for its privileges \$15,000. per annum for the first 10,000 horsepower, and for each electrical horsepower "generated and used and sold or disposed of"

From 10,000 to 20,000 at . . .	\$1.00 per annum
" 20,000 to 30,000 at . . .	.75 "
Over 30,000 at	.50 "

Power Developed The average amount of power developed by the company in 1906 was 12,206 H.P.; in 1910, 46,394 H.P., and in 1920

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE
IN RESPONSE TO A RESOLUTION OF THE HOUSE OF COMMONS
PASSED ON THE 11TH MARCH 1881.

THE LANDS OF THE CROWN, AND THE LANDS BELONGING TO THE
SEVERAL DEPARTMENTS OF THE GOVERNMENT, HAVE BEEN
CLASSIFIED INTO THREE DIVISIONS, AND THE RESULTS
OF THE SURVEY OF THE SAME, AS FAR AS THE
LANDS OF THE CROWN ARE CONCERNED, ARE
HEREIN SET FORTH IN THE FOLLOWING TABLES.

TABLE I.—LANDS OF THE CROWN, AND THE LANDS BELONGING TO THE
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CROWN ARE CONCERNED.

Capacity
of Plant

The plans approved by the Commissioners show provision for 11 units, with a total capacity of 121,000 horsepower. The quantity of water required for the complete plant as computed and approved by the International Waterways Commission is 9,600 second-feet.

The Order in Council of June 18th, 1914, quoted above, allows the Company 8,325 second-feet. According to the Taylor Report the amount of water now being diverted from the Niagara River by this company is 9,600 second-feet.

In 1919 the company made provision to add another generating unit but before the Park Commission would grant permission for it to install this unit the Company had to go on record that its works would not have a capacity in excess of 100,000 H.P. On June 25th, 1919, Mr. A. Munro Grier, on behalf of the Company, advised Mr. John H. Jackson, Superintendent of the Park, in part as follows:

"We hereby give the distinct understanding in writing required by the Commission, namely, that the approval of unit No. 11 (new unit) is under no circumstances to be used as a foundation for any claim on our part that we are entitled to develop in excess of the limit set forth in your letter of July 2, 1919" (100,000 H.P.).

The power developed by the company is largely exported to the United States. Under the Burton Act the Company was allowed to import into the United States 52,500 horse power.

Ontario Power Company

This company came into existence in 1887 under the name of the Canadian Power Company. It assumed its present name on July 10th, 1899. In 1900 the company entered into an agreement, usually termed the First Agreement, with the Queen Victoria Niagara Falls Park Commissioners by which water might be conducted in an open channel from the Welland River to a power house in the Park. The scheme contemplated conducting the spent water in the tail race of this first development by subterranean channel to a proposed powerhouse situated somewhere in the gorge below the Falls, thus acquiring a so-called double head. In 1902 the company applied for rights to divert water from the Niagara River, and on June 28th of that year an agreement was signed surrendering the rights acquired under the First Agreement and abandoning the proposed open hydraulic canal running through the Park. Instead provision was made to conduct water from the Welland and Niagara Rivers by means of parallel lines of underground pipes or conduits. (Pipe lines).

Plant The power house is situated in the gorge below the Falls and the intake near the Dufferin Islands above the Falls. Water is conveyed a distance of over 6,000 feet by means of three (until 1917 only 2) underground conduits each of 18-ft internal diameter.

As in the case of the other companies the amount of power which the company is permitted to generate is not specified in the agreements. Plans of the development

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showed provision for 22 units each having a nominal capacity of 10,000 to 12,000 H.P.

The quantity of water required for the complete plant was computed by the International Waterways Commission to be about 12,000 second-feet. The Order in Council of June 18th, 1914, allowed the company 11,180 second-feet. The Third Pipe Line constructed in 1917 required an additional diversion of 2100 second-feet, (based on Gen. Taylor's figures). The quantity of water now being diverted by the Ontario Power Co., according to the same Report, is 13,300 second-feet .

During the war, owing to a power shortage, and prior to its purchase by the H.E.P.C., the Ontario Power Company made plans to construct the Third Pipe Line. As of August 1st, 1917, the company was purchased by the H. E. P. C., and the Park Commissioners granted a permit to install the third pipe line. This permission was granted with the understanding that the construction should be vacated in five years, or by March 1st, 1923, but since that time an agreement has been reached between the Park Commission and the H. E. P. C. through which it will be possible for the third pipe line to be maintained in existence for an indefinite period of time.

The capacity of the Company is rated at 200,000 H.P., being 40,000 H.P. more than before the construction of the third pipe line.

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Terms of
License

The license granted is for the term of 50 years commencing April 1st, 1900. Provisions for renewal are the same as those contained in the agreement with the Canadian-Niagara Power Co. The Company pays a clear rental of \$30,000, and additional rentals for each electrical horse power "generated and used and sold or disposed of," from \$1.00 to 50 cents per annum in the same terms as the rentals of the Canadian-Niagara Power Co.

The average amount of power developed in 1903 was 13,535 H.P.; in 1911, 54,765 H.P., in 1921, 190,000 H.P.

The report of the Commission on Conservation, Water-Powers of Canada, 1911, states that the following power distributing companies in Canada are affiliated with the Ontario Power Company:

The Ontario Transmission Company,
The Ontario Distributing Company,
The Falls Development Company,
The Niagara, Lockport and Ontario Power Co.

The Electrical Development Company, Ltd.

On January 29th, 1903, the Commissioners of Queen Victoria Niagara Falls Park entered into an agreement (confirmed by Order in Council, Jan. 30, 1903) with a syndicate composed of Sir William Mackenzie, Sir Henry Pellatt and the late Frederick Nicholls, granting them privileges expressed in part as follows:

"..... a license irrevocable to take from the waters of the Niagara River within the Park a sufficient quantity of water to develop 125,000 electrical, or pneumatic, or other horse-power for commercial use."

On February 18th, 1905, the Syndicate was consolidated into The Electrical Development Company of Ontario, Limited .

At present the Electrical Development Company, Ltd. is associated with or controlled by lease by the Toronto Power Company.

On January 9th, 1905, the Electrical Development Company, Ltd. entered into an agreement with the Commissioners of Queen Victoria Niagara Falls Park whereby the Company was to utilize the waters of the Niagara River for the development of 125,000 H.P., under terms and conditions corresponding to those in the agreement of Jan. 29th, 1903. This agreement, however, was not ratified by the Lieutenant-Governor in Council and consequently never became valid.

The volume of diversion permitted the Company by the Order in Council of June 18th, 1914 was 9,985 second-feet. Legal action was brought against the Province by the Electrical Development Co., Ltd. as the result of this Order in Council, and to date these actions are still pending and the case undecided. However, the Royal Commission appointed under authority of the Water Power Regulation Act, 1917 (7 Geo.V, Chap. 22) handed out on April 25th, 1918, a decision which read in part as follows:

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"....our conclusion is that it may be taken that the Company is entitled to use 10,512 second-feet of water.

"We find that the Company is not entitled at any time to develop more than 125,000 horsepower for commercial use....."

"We find that the capacity of the works installed or equipped by the Company is 150,000 horsepower for commercial use which exceeds by 25,000 horsepower the amount of horsepower which the Company is entitled to develop or generate for that purpose."

"Having regard to the circumstances and present conditions should the Company be ordered to deliver to the Hydro-Electric Power Commission of Ontario such excess power or energy, we are of the opinion and we find that a reasonable price for such excess power or energy is \$9.00 per horsepower per annum."

Shortly after this decision by the Royal Commission, the Hydro-Electric Power Commission began to take the excess power from the Electrical Development Company, Ltd, but the Company carried to the Courts the question of price to be paid and was later awarded a price higher than the \$9.00 per H.P.-year named by the Royal Commission

According to the Taylor Report the amount of water being diverted from the Niagara River by this Company is 12,400 second-feet.

Plant . The plant of the Electrical Development Company, Ltd. is situated above the Falls about midway between the headworks of the Ontario Power Company and the plant of the Canadian Niagara Power Company. The amount of water allotted to this Company by the International Waterways Commission in 1909 was 11,200 second-feet. The nominal capacity of the plant is 137,500 H.P., or when one unit is regarded as a spare, 125,000 H.P.

Terms of
License

The Company pays a yearly rental of \$15,000. for the first 10,000 H.P., and for each additional electrical horsepower "generated and used and sold or disposed of"

From 10,000 to 20,000 at		\$1.00 per H.P.
From 20,000 to 30,000 at		.75 "
30,000 and up	at	.50 "

The average amount of power developed in 1908 was 11,324 H.P; in 1911, 22,157 H.P; in 1920, H.P.

The company which transmits to Toronto the power developed by the Electrical Development Co. is the Toronto & Niagara Power Co. (Formerly The Toronto Electric Light Company. Limited.)

Both these companies are controlled by the holding company, the Toronto Power Co, Ltd.

International Railway Company

On December 4th, 1891, the Commissioners of Queen Victoria Niagara Falls Park entered into an agreement with a syndicate of Canadian capitalists for the construction and operation of an electric railway on the west bank of the Niagara River from the village of Queenston to the village of Chippawa. The agreement was confirmed and the company incorporated by an Act of the Ontario Legislature (55 Victoria, Chap. 96) under the title of the Niagara Falls Park and River Railway Company. In 1900 the Buffalo Railway Co., operating electric railways in Buffalo, Tonawanda, etc., obtained Canadian incorporation under a Dominion Act (53-54 Victoria, Chap.54) with authority to purchase the entire assets, etc. of the Niagara Falls Park and River Railway Co. This Act was followed by an Act of the

Ontario Legislature (1 Ed.VII, Chap 86 -1901-) confirming the license of the Buffalo Railway Company to make the said purchase.

On May 15th, 1902, the Buffalo Railway Co. obtained an amendment to 63-64 Victoria, Chap 54, changing the name to the International Railway Company, and the name was also changed by the Ontario Act (2 Ed.VII, Chap. 12, Sec. 30)

The International Railway Co. is therefore an amalgamation of several other companies.

Plant The power plant of the company is situated within Queen Victoria Niagara Falls Park. The quantity of water required for the complete plant has been computed to be 1,500 second-feet; the plant capacity was taken at 8,000 H.P. The quantity of water diversion allotted by the International Waterways Commission was 1,500 second-feet. According to the Taylor Report the amount of water being used is 125 second-feet

Terms of Lease The Company pays an annual rental of \$10,000. which includes the right to run through the Park. The lease is for a period of 40 years from September 1st, 1892, and may be extended for a further period of 20 years.

Niagara Falls Water Works

The intake works of the City of Niagara Falls, Ont. Water Works is used conjointly with the intake works of the International Railway Company, and is used to develop 500 horsepower for civic pumping purposes

Mr. Murray, in his report, suggests that the Ontario Government has broken faith with the Power Companies at Niagara Falls. The following quotation is taken from his report:

"The Queen Victoria Niagara Falls Park Commission, in granting licenses to the Ontario Power Company, the Canadian-Niagara Company and the Electrical Development Company, obligated the government not to go into competition with these companies in developing power from Niagara Falls. In 1916, the legislature passed an Act, the wording of which is:

'The exercise of the powers which may be conferred by or under the authority of this Act or of any of them shall not be deemed to be making use of the waters of the Niagara River to generate electrical or pneumatic power within the meaning of any stipulation or condition in any agreement entered into by the commissioners for the Queen Victoria and Niagara Falls Park'----

this with reference to the construction by the Commission of an hydro-electric plant at Niagara. This particular clause caused so much resentment that the Act was amended in 1917, making the municipalities, rather than the province, the owners of the proposed Niagara Power Development and inasmuch as the municipalities were not directly the government, it was thereby considered that faith had not been broken between the Victoria Park Commissioners and the original power companies located at Niagara Falls. Such a fine distinction does not, it seems to me, remove from the government the responsibility of having broken faith with its original contracts, through the Park Commission, with the power companies."

THE HISTORY OF THE UNITED STATES
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